

## PATENT

REMARKSDISCUSSION OF SPECIFICATION

The specification is objected because the copending application referred to on page 1, line 10 must be identified with its status upated as appropriate. In response thereto, the specification has been amended to include the required updated information.

DISCUSSION OF CLAIMS

In the Office Action, claims 1 and 2 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of U.S. Patent No. 6,711,438.

In the Office Action, claims 1 and 2 are rejected under 35 U.S.C. §102(e) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent Number 6,539,259 to Weinberg et al.

In the Office Action, claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Following is a discussion of the patentability of each of the pending claims.

Rejection of Claims 1 and 2 under Obviousness-Type Double Patenting

In response to the rejection of claims 1 and 2 under the judicially created doctrine of obviousness-type double patenting, a terminal disclaimer in compliance with 37 CFR Section 1.321(c) and signed by the undersigned attorney is enclosed herewith that obviates the above double patenting rejection. Accordingly, withdrawal of the rejection of claims 1 and 2 under obviousness-type double patenting is respectfully requested.

## PATENT

Rejection of Claims 1 and 2 under 35 U.S.C. §102(e) or 35 U.S.C. §103(a) by Weinberg et al.

Without addressing the merits of the rejection of claims 1 and 2, in accordance with the American Inventors Protection Act, the *Weinberg et al.* reference does not qualify as prior art for a rejection under 35 U.S.C. §102(e) or 35 U.S.C. §103(a) because the present application has been filed on or after November 29, 1999 and the subject matter of the *Weinberg et al.* reference and claims 1 and 2 were, at the time the invention was made, subject to an obligation of assignment to the same organization (see section entitled "Obligation of Assignment to the Same Organization" ). Accordingly, the *Weinberg et al.* reference no longer qualifies as prior art under 35 USC §102(e) or 35 U.S.C. §103(a). Furthermore, claims 3 and 4 depend from claim 1 and are similarly patentable. Accordingly, it is respectfully submitted that claims 1-4 are in condition for allowance.

Obligation of Assignment to the Same Organization

Ronald Tamura, an attorney of record for the present application, states that Application Serial Number 10/033,254 and U.S. Patent Number 6,539,259 to *Weinberg et al.* were, at the time the invention of Application Serial Number 10/033,254 was made, owned by Pacesetter, Inc. or subject to an obligation of assignment to Pacesetter, Inc. Submitted herewith are Exhibit A, which is the recorded Assignment for U.S. Patent Number 6,539,259; and Exhibit B, which is the recorded Assignment for the present application Serial Number 10/033,254.

PATENT

**CONCLUSION**

In light of the above claim amendments and remarks, it is respectfully submitted that the application is in condition for allowance, and an early notice of allowance is requested.

Respectfully submitted,

6/24/04

Date



Ronald S. Tamura, Reg. No. 43,179  
Patent Attorney for Applicant

Pacesetter, Inc.  
15900 Valley View Court  
Sylmar, CA 91392-9221  
818/493-3157  
818/362-4795 (fax)

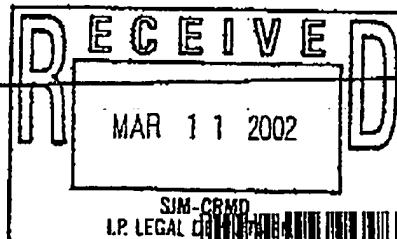
Enclosures: Exhibits A and B  
Terminal Disclaimer Under 37 CFR 1.321(c)



MARCH 07, 2002

PTAS

PACESETTER, INC.  
ESTELLA PINEIRO  
LEGAL DEPT.  
15900 VALLEY VIEW COURT  
SYLMAR, CA 91392-9221



Chief Information Officer  
Washington, DC 20231  
www.uspto.gov

\*101946469A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 10/25/2001

REEL/FRAME: 012450/0827  
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
MCCLURE, KELLY H.

DOC DATE: 10/23/2001

ASSIGNOR:  
FLORIO, JOSEPH J.

DOC DATE: 10/25/2001

ASSIGNOR:  
BORNZIN, GENE A.

DOC DATE: 10/24/2001

ASSIGNEE:  
PACESETTER, INC.  
15900 VALLEY VIEW COURT  
SYLMAR, CALIFORNIA 91392-9221

SERIAL NUMBER: 10033410  
PATENT NUMBER:

FILING DATE: 10/25/2001  
ISSUE DATE:

EXHIBIT A

012450/0827 PAGE 2

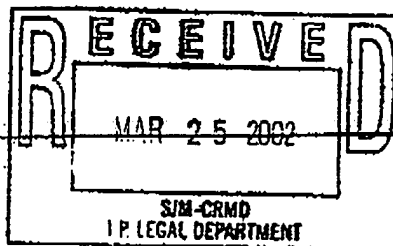
MARY BENTON, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS



MARCH 18, 2002

PTAS

PACESETTER, INC.  
ESTELLA PINEIRO  
LEGAL DEPT.  
15900 VALLEY VIEW COURT  
SYLMAR, CA 91392-9221



Chief Information Officer  
Washington, DC 20231  
www.uspto.gov



\*102010106A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 10/25/2001

REEL/FRAME: 012486/0539  
NUMBER OF PAGES: 2

BRIEF: (ASSIGNMENT OF ASSIGNOR'S INTEREST) RE-RECORD TO CORRECT THE RECORDATION DATE OF 12-25-01 TO 10-25-01, PREVIOUSLY RECORDED AT REEL 012441, FRAME 0501.

ASSIGNOR:  
MCCLURE, KELLY H.

DOC DATE: 10/23/2001

ASSIGNOR:  
FLORIO, JOSEPH J.

DOC DATE: 10/25/2001

ASSIGNOR:  
BORNZIN, GENE A.

DOC DATE: 10/24/2001

ASSIGNEE:  
PACESETTER, INC.  
15900 VALLEY VIEW COURT  
SYLMAR, CALIFORNIA 91392-9221

SERIAL NUMBER: 10033254  
PATENT NUMBER:

FILING DATE: 10/25/2001  
ISSUE DATE:

EXHIBIT B

012486/0539 PAGE 2

JEEVON JONES, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS